

30861. Misbranding of canned cherries. U. S. v. 22 Cases of Red Sour Pitted Cherries. Default decree of condemnation and destruction. (F. & D. No. 44724. Sample No. 43601-D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On January 25, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cases of canned cherries at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce on or about July 23, 1938, by Stayton Canning Co. from Stayton, Oreg.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Mountain Home Brand Water Pack Pastry Pack Red Sour Pitted Cherries Haas Brothers Distributors San Francisco, Oakland, Fresno, Calif."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the fruit was not pitted and it contained more than 1 cherry pit per each 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On August 21, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30862. Adulteration of strawberry preserves. U. S. v. 39 Cans and 101 Jars of Strawberry Preserves. Default decree of condemnation and destruction. (F. & D. Nos. 44987, 44988. Sample Nos. 39461-D, 39462-D.)

Examination of this product showed the presence of moldy fruit.

On March 10, 1939, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel, and subsequently an amended libel, praying seizure and condemnation of 39 cans and 101 jars of strawberry preserves at Longview, Wash.; alleging that the article had been shipped in interstate commerce on or about August 1, 1938, by Kerr Conserving Co. from Portland, Oreg.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kerr's Pure Preserves Strawberry."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On August 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30863. Adulteration of whole frozen eggs. U. S. v. S. Blick Co., Inc. Plea of guilty. Fine, \$25. (F. & D. No. 42731. Sample No. 12129-D.)

This product was found to be in part decomposed.

On July 18, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the S. Blick Co., Inc., New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act on or about August 8, 1938, from the State of New York into the State of New Jersey of a quantity of frozen eggs that were adulterated.

Adulteration was alleged in that the article consisted in whole or in part of a decomposed animal substance.

On July 25, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$25.

M. L. WILSON, *Acting Secretary of Agriculture.*

30864. Adulteration and misbranding of vanilla extract. U. S. v. Abraham Kupfershmid (De Calais Laboratorie). Plea of guilty. Fine, \$100. (F. & D. No. 42674. Sample Nos. 3841-D, 3842-D, 5625-D, 5710-D, 17444-D.)

This product, which was represented to be pure vanilla extract, was found to consist of an artificially colored imitation vanilla extract containing added vanillin but little or no true vanilla.

On June 29, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Abraham Kupfershmid, trading as the De Calais Laboratorie, New York, N. Y., alleging shipment by said defendant

within the period from on or about April 5 to on or about May 7, 1938, from the State of New York into the State of Texas, of quantities of vanilla extract which was adulterated and misbranded and further alleging the sale by said defendant on or about December 21, 1937, under a guaranty that the article was not adulterated or misbranded within the meaning of the Food and Drugs Act, of a quantity of vanilla extract which was adulterated and misbranded and was shipped in interstate commerce on or about December 27, 1937, from the State of New York into the State of West Virginia by the purchaser thereof. Portions of the article were labeled: "Perfection Brand Pure Vanilla Extract 8 Oz. Net R. C. Williams & Co., Inc., Distributors, New York, N. Y." One lot was labeled: "Pure Vanilla No. 1 Grade R. C. Williams & Co., Inc., Distributor New York, N. Y."

Adulteration was alleged in that an artificially colored imitation vanilla extract containing added vanillin and little or no true vanilla had been substituted for pure vanilla extract, which it purported to be. Adulteration was alleged further in that the article was inferior to pure vanilla extract and had been mixed and colored in a manner whereby its inferiority was concealed.

Misbranding was alleged in that the statements "Pure Vanilla Extract" and "Pure Vanilla," borne on the labels, were false and misleading and were borne on the said labels so as to deceive and mislead the purchaser since the article did not consist of pure vanilla extract but did consist of an artificially colored imitation vanilla extract containing added vanillin and little or no true vanilla. It was alleged to be misbranded further in that it was an imitation of pure vanilla extract and was offered for sale under the distinctive name of another article, namely, pure vanilla extract.

On July 10, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

30865. Adulteration of brewers' rice. U. S. v. 175 Bags of Brewers' Rice. Product ordered released under bond for reconditioning. (F. & D. No. 45044. Sample No. 59009-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part insect-infested.

On March 20, 1939, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 175 bags of brewers' rice at Evansville, Ind.; alleging that the article had been shipped on or about February 16, 1939, by the Kaplan Rice Mill, Inc., from Kaplan, La.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On June 7, 1939, Meyer Supply Co., having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond for reconditioning under the supervision of this Department. The product was reconditioned by segregation and destruction of the unfit portion.

M. L. WILSON, *Acting Secretary of Agriculture.*

30866. Adulteration of dried peaches. U. S. v. Sanfilippo Bros., Inc. Plea of guilty. Fine, \$50. (F. & D. No. 42740. Sample No. 36793-D.)

Samples of this product were found to be dirty and moldy, and to contain insect excreta and dead worms.

On July 26, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Sanfilippo Bros. Inc., San Jose, Calif., alleging that on or about February 9, 1939, the defendant delivered to the transportation company, for shipment from San Jose, Calif., to the Territory of Hawaii, a quantity of dried peaches which were adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Suni-Bel Brand Choice Peaches."

Adulteration was alleged in that the article consisted in whole or in part of a filthy animal or vegetable substance.

On August 4, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*